

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**IN RE TRANSPACIFIC PASSENGER  
AIR TRANSPORTATION  
ANTITRUST LITIGATION**

Case No. 07-cv-05634-CRB

**ORDER DIRECTING  
SUPPLEMENTAL FILING  
REGARDING MOTION FOR  
ATTORNEYS' FEES [Docket No.  
1227]**

The Court has reviewed Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Expenses and Class Representative Incentive Awards, and the corresponding declarations filed therewith. Mot. (dkt. 1227), Lebsock Decl. (dkt. 1228). A hearing on this matter is set for September 14, 2018 at 10:00 a.m. Having reviewed the motion, the Court directs Plaintiffs to file a document addressing the following issues on or before September 7, 2018.

1. With respect to attorneys' fees, Plaintiffs request \$14,416,680.56 in the Notice of Motion. Mot. at i. However, in the accompanying Memorandum of Points and Authorities and the Proposed Order, Plaintiffs request \$14,416,664.31. Id. at 15; Proposed Order (dkt. 1227-1) ¶ 2. Plaintiffs are directed to clarify which calculation is Plaintiffs' requested attorneys' fees, and to illustrate how Plaintiffs calculated their requested attorneys' fees.

2. In the Notice of Motion, Plaintiffs request reimbursement for \$1,060,254.15 in litigation expenses. Mot. at i. Then, in the Memorandum of Points and Authorities and

the Proposed Order, Plaintiffs declare that Plaintiffs' counsels spent, in total, \$1,060,308.30 for out of pocket expenses. Id. at 1; Proposed Order ¶ 4. Both the Motion and the Proposed Order fail to mention the \$3,000,000 the Court set aside "for future expenses" in the previous settlement approved on May 26, 2015. See Mot.; Proposed Order; May 26, 2015 Order Granting Final Approval (dkt. 1009) at 3. Instead, Plaintiffs explain that the \$1,060,308.30 is the sum of two numbers: (1) the "\$1,021,882.28 in expenses that were not previously reimbursed because the expenses were submitted after Plaintiffs' Counsel filed their initial motion for fees and costs," Mot. at 1, fn.3; and (2) the \$38,426.02 which consists of the total "expenses of all Plaintiffs' counsel that participated in the joint prosecution of this litigation between February 21, 2015 and May 16, 2018." See Lebsock Decl. ¶ 89, (dkt. 1228-5) Ex. 5. In contrast, in the Declaration of Christopher L. Lebsock, Mr. Lebsock states that in addition to the \$1,060,308.30, which represents the total unreimbursed costs and expenses, Plaintiffs' counsel have also spent a total of \$5,252,790.00 from a "Litigation Fund," which was not "included for reimbursement in any of the individual fee and expense declarations of any Supporting Counsel." Lebsock Decl. ¶ 92. Mr. Lebsock clarifies that the \$5,252,790.00 was paid for using: (1) the \$3,000,000 that the Court previously set aside for "future expenses;" and (2) an additional \$2,252,790.00 contributed by Plaintiffs' counsel. Id. Mr. Lebsock cites to Exhibit 4, which purports to lay out all of the necessary litigation costs and expenses that were not included in Exhibit 5. See Lebsock Decl. (dkt. 1228-4) Ex. 4. However, Exhibit 4 includes all expenses from May 7, 2008 to July 30, 2018, which overlaps with the expenses that the Court ordered that Plaintiffs were entitled to in the first Order Approving Settlement. Id.; see May 26, 2015 Order Granting Final Approval at 3; Lebsock Decl. from Apr. 7, 2015 (dkt. 987-4). Further, Exhibit 4 shows a balance of \$232,386.51 still in existence in the Plaintiffs' established Litigation Fund, but no explanation of how the excess money impacts the reimbursement request. See Lebsock Decl. Ex. 4. Accordingly,

1 Plaintiffs are directed to clarify their requested expenses for the applicable time period,<sup>1</sup>  
2 how Plaintiffs calculated those expenses, what documents support their request, and how  
3 the \$3,000,000 “future expenses” fund that the Court set aside in the May 26, 2015 Order  
4 Granting Final Approval was used.

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6 **IT IS SO ORDERED.**

7 Dated: August 31, 2018



8 CHARLES R. BREYER  
9 United States District Judge  
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28 <sup>1</sup> Plaintiffs are further directed to provide invoices and documents that explain the additional \$2,643,099.33 paid to Nathan Associates Inc. See Lebsack Decl. Ex. 4. at 4.